

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3

4 JANE DOE, a minor, by and through  
5 her guardian ad litem, WILFRED  
SCOTT;

No. C 11-4759 CW

ORDER GRANTING  
PETITION ON  
MINOR'S COMPROMISE  
(Docket No. 58 in  
11-4759)

6 Plaintiff,

7 v.

8 RYAN GILL; ANTHONY MORGAN; and  
9 CITY OF SAN LEANDRO,

10 Defendants.  
11 \_\_\_\_\_ /  
12 JUDY BROWN; and IMAREE CROSS;  
13 Plaintiffs,  
14 v.  
15 RYAN GILL; ANTHONY MORGAN; and  
16 CITY OF SAN LEANDRO,  
17 Defendants.  
18 ERICKA WHITMEYER  
19 Plaintiff,  
20 v.  
21 RYAN GILL; ANTHONY MORGAN; and  
22 CITY OF SAN LEANDRO,  
23 Defendants.  
24 \_\_\_\_\_ /  
25 Petitioner Wilfred Scott, as guardian ad litem for Plaintiff  
26 Jane Doe, a minor, requests approval of a compromise of Doe's  
27 claims against Defendants Ryan Gill, Anthony Morgan and the City  
28

1 of San Leandro. Having considered the papers filed by Petitioner,  
2 the Court GRANTS the petition.

3 BACKGROUND

4 Through her guardian ad litem, Scott, Doe initiated this  
5 lawsuit on September 23, 2011. In the complaint, Doe alleges  
6 that, on December 29, 2010, her mother, Gwendolyn Killings, was  
7 shot and killed by Defendants Gill and Morgan, police officers  
8 employed by Defendant City of San Leandro. Doe brought claims  
9 under 42 U.S.C. § 1983 for violations of the Fourth and Fourteenth  
10 Amendment and a survival action against Defendants Gill and  
11 Morgan, claims against Defendant City of San Leandro for failure  
12 to properly train and supervise, and claims against all Defendants  
13 for wrongful death.

14 On January 18, 2012, the Court consolidated Doe's action with  
15 the two higher-numbered actions captioned above. The plaintiffs  
16 in the other actions are also survivors and heirs of Gwendolyn  
17 Killings.

18 Scott filed the instant petition for approval of a minor's  
19 compromise on May 3, 2012. In his papers, he represents that the  
20 City of San Leandro, on behalf of all Defendants, has agreed to  
21 pay a total of \$50,000 to the four Plaintiffs to settle their  
22 claims, and that the Plaintiffs have agreed to divide this amount  
23 equally, so that each will receive \$12,500. He also states that  
24 forty percent of Doe's recovery, or \$5,000, will be paid to her  
25 attorneys as fees, along with an additional \$311.15 as costs for  
26 deposition transcripts and chart reproduction. Thus, Doe's net  
27 recovery under the settlement would be \$7,188.85.

28

## LEGAL STANDARD

2 As the Ninth Circuit recently stated, "District courts have a  
3 special duty, derived from Federal Rule of Civil Procedure 17(c),  
4 to safeguard the interests of litigants who are minors." Robidoux  
5 v. Rosengren, 638 F.3d 1177, 1181 (9th Cir. 2011). "In the  
6 context of proposed settlements in suits involving minor  
7 plaintiffs, this special duty requires a district court to  
8 'conduct its own inquiry to determine whether the settlement  
9 serves the best interests of the minor.'" Id. (quoting Dacanay v.  
10 Mendoza, 573 F.2d 1075, 1080 (9th Cir. 1978)).

11       The Ninth Circuit has directed that, in conducting this  
12 inquiry in cases involving the settlement of a minor's federal  
13 claims, district courts should "limit the scope of their review to  
14 the question whether the net amount distributed to each minor  
15 plaintiff in the settlement is fair and reasonable, in light of  
16 the facts of the case, the minor's specific claim, and recovery in  
17 similar cases," and should "evaluate the fairness of each minor  
18 plaintiff's net recovery without regard to the proportion of the  
19 total settlement value designated for adult co-plaintiffs or  
20 plaintiffs' counsel – whose interests the district court has no  
21 special duty to safeguard." Id. at 1181-82 (citing Dacanay, 573  
22 F.2d at 1078).

23 While the Ninth Circuit has not expressed a view as to the  
24 proper approach for courts to use when approving settlement of a  
25 minor's claims arising under state law, see id. at 1179 n.2, and  
26 Doe brings claims under both federal and state law, the Court  
27 applies the same standard to settlement of all of her claims.

## 1 DISCUSSION

2 Doe, through her guardian ad litem, has agreed to settle her  
3 claims against Defendants in exchange for \$7,188.85. Plaintiff's  
4 counsel, who has represented plaintiffs in similar claims against  
5 law enforcement since 1985, has filed a declaration in which he  
6 states that, in his assessment, this case would have been very  
7 difficult to prosecute through trial successfully for a variety of  
8 reasons, including allegations that, at the time of the shooting,  
9 the decedent was under the influence of a controlled substance and  
10 was attempting to hit an officer with a stolen vehicle.

11 Upon review of the papers submitted, the Court finds this  
12 amount to be reasonable and the settlement to be in the best  
13 interest of Doe. The Court grants Petitioner's application.

## 14 CONCLUSION

15 Based on the foregoing, Petitioner's request for approval of  
16 a minor's compromise is GRANTED (Docket No. 58 in 11-4759). The  
17 parties shall promptly file a stipulated dismissal pursuant to  
18 Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

19 Within sixty days after receipt of his settlement funds from  
20 Defendants, Scott shall provide proof to the Court that \$7,188.85  
21 was deposited into a blocked account with a federally insured bank  
22 for the benefit of Doe and that she can access when she reaches  
23 the age of majority.

24 IT IS SO ORDERED.

25  
26 Dated: 5/29/2012

  
27 CLAUDIA WILKEN  
28 United States District Judge